IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.8079 OF 2005

Kailash Sitaram Adalgale .. Applicant

‘ Versus

State of Maharashtra .. Respondent

Ms.Pranali Kakade for applicant

Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 20th December 2005.

P.C.

. Heard Ms.Kakade for applicant and Mr.Pednekar, A.P.P. for State. Applicant was enlarged on bail by this Court on 17th August

2005. Order to that effect was passed in Criminal Application No.4744 of 2005. Applicant was enlarged on bail, inter alia, on the following condition:-

> "(iv) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail."

2. It appears that the applicant was present when deposition of P.W.1 was recorded. Sessions Case No.308 of 2005 alleges offences punishable under section 326, 307, 506(1) of I.P.C. Applicant was put under arrest on 31st January 2005 on serious charges of throwing acid on the face of complainant because she refused to respond to him. Agitated and frustrated by the attitude of the complainant in avoiding even

meeting him, it is alleged that on the relevant date applicant dragged her into a vehicle and was trying to get an assurance from her. On refusal by her to marry him, he got agitated and threw acid on her face. Applicant was enlarged on bail on the condition as reproduced above.

3. After the version of complainant was recorded, applicant applied for adjournment. Thereafter, case was adjourned and on the adjourned date once again application for adjournment was made on the ground that the Advocate of applicant was not carrying on the matter as per applicant's instructions and he wants to engage another Advocate.

4. Learned Sessions Judge granted repeated applications for adjournment in the interest of justice to enable applicant to make arrangement for his representation by Advocate. Discretion of the learned trial Judge, according to him, was

misused and, therefore, by the impugned order, he not only refused applicant's application for adjournment to a longer date but because of the conduct of applicant in not cooperating in the disposal of the case, cancelled his bail and directed that he be taken into custody.

5. While it is true that this Court has imposed condition and the learned Judge has taken note of the conduct of the accused, in my view, considering peculiar facts and circumstances, learned Judge should not have proceeded to cancel the bail but would have been well advised in granting opportunity to the applicant to engage another Advocate. Apart from this Ms.Kakade appearing in support of this application states that now the applicant would engage another Advocate in case he so desires within a period of one week from today and even if no arrangements are made, he shall proceed with the trial and shall not seek adjournment on the ground of

engagement of Advocate. He undertakes to remain present on every date of hearing in the sessions court and in case he could not remain make any arrangement for an Advocate, he shall abide by such orders as the session Judge may pass including providing legal aid.

6. In the light of this statement and undertaking of the applicant recorded through his advocate appearing before me, the impugned order is quashed and set aside. The applicant shall be released on bail in the sum of Rs.15,000/- with all the conditions imposed in the order dated 17th August 2005 in Criminal Application No.4744 of 2005. Needless to state that in case applicant does not cooperate in expeditious disposal of the case and seeks unnecessary adjournments, this order will be liable to be cancelled without reference to this Court.

(S.C.DHARMADHIKARI, J)